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5 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

6 UNITED STATES OF AMERICA,

7 Plaintiff,

8 v.

9 JOHN EDWARDS, et al.,

10 Defendants.

Case No. 2:09-cr-00132-MMD-RJJ

**Stipulation To Continue the Trial Date and  
Proposed Findings of Fact  
& Conclusions of Law**

11  
12 **IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned  
13 attorneys, that the trial date and calendar call be vacated and continued to a date and time convenient  
14 to this Court, but not sooner than nine months: (1) the calendar call presently scheduled for  
15 December 26, 2012, at 9:00 am, and (2) the trial currently scheduled for January 8, 2013, at 9:00 am.

16 This stipulation is entered into for the following reasons:

17 1. The Court has designated this case as complex. (Docket No. 57). The defendants  
18 need additional time to prepare for trial in the case including conducting legal research and factual  
19 investigation to determine the best respective defenses. The Parties also need additional time to  
20 continue exploring full resolution of the matter without going to trial. Further, as noted above, the  
21 Court has found that this case is sufficiently unusual and complex, due to the number of defendants,  
22 the nature of the prosecution, etc., to designate this case as a complex case. For all of these reasons,  
23 it is unreasonable to expect adequate preparation for pretrial proceedings and for the trial itself to  
24 occur within the time limits established under the Speedy Trial Act. (This is particularly true as

1 defendant Jeffrey Turino has just been extradited back to the United States, and his attorney will  
2 need additional time to review these materials and prepare for trial.) As such, the period for this  
3 continuance is excludable under 18 U.S.C. § 3161(h)(7)(A) when considering the factor under 18  
4 U.S.C. § 3161(h)(7)(B)(ii).

5 2. Certain defendants such as John Edwards are still in foreign countries, contesting  
6 extradition to the United States of America. Further, the interests of efficiency, judicial economy  
7 and the interests of justice would be best served by a continuance. As such, the period of delay  
8 resulting from the absence or unavailability of these defendants is excludable under the Speedy Trial  
9 Act, 18 U.S.C. § 3161(h)(3)(A).

10 3. Finally, the additional time requested by this stipulation is excludable in computing  
11 the time within which the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C.  
12 § 3161(h)(7)(A), when considering the factors under 18 U.S.C. §§ 3161(h)(7)(B)(i) (and,  
13 alternatively, under (h)(7)(B)(iv)) because, among other things, the failure to grant this requested  
14 continuance would likely result in a miscarriage of justice for the following reasons:

15 (a) As noted above, the voluminousness of the case materials, as well as the  
16 nature of the case, require additional time for the defendants to review the materials, conduct legal  
17 research and prepare for trial. As noted above, this is particularly true for counsel for defendant  
18 Jeffrey Turino whose client was only recently extradited back to the United States and thus, has not  
19 had an adequate opportunity to examine the discovery.

20 (b) Defendant Jeffrey Turino is in custody, but does not object to the continuance  
21 of the trial. Most of the defendants who have appeared in this case, Ginger Gutierrez, James Kinney,  
22 Brian Dvorak, Helen Bagley, Jeff Mitchell and Melissa Spooner, are not in custody, and, along with  
23 the United States, agree to a continuance of the trial date.

24 (c) Certain defendants such as John Edwards are still in foreign countries,

1 contesting extradition to the United States of America; thus, the interests of efficiency, judicial  
2 economy and the interests of justice would be best served by a continuance.

3 (d) This is the fourth request for a continuance of the trial date.

4 **CONCLUSIONS OF LAW**

5 1. For the above-stated reasons, the ends of justice served by a continuance of the trial  
6 date outweigh the best interest of the public and the defendants in a speedy trial. Thus, the  
7 additional time requested by this stipulation is excludable in computing the time within which the  
8 trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. §3161(h)(7)(A), when  
9 considering the factors under 18 U.S.C. §§ 3161(h)(7)(B)(i), 3161(h)(7)(B)(ii) (and, alternatively,  
10 under 3161(h)(7)(B)(iv)).

11 2. Further, because the Parties seek a continuance due to a period of delay resulting  
12 from the absence of certain defendants who continue to await extradition, the additional time  
13 requested by this stipulation is also excludable in computing the time within which the trial herein  
14 must commence pursuant to the Speedy Trial Act, 18 U.S.C. §3161(h)(3)(A).

15 Respectfully submitted,

16 /s/Chris Rasmussen  
Chris Rasmussen, Esq.  
17 Counsel for Ginger Gutierrez

18 /s/Todd M. Leventhal  
19 Todd M. Leventhal, Esq.  
Counsel for James Kinney

20 /s/John Hall  
21 John Hall, Esq.  
22 Counsel for Brian Dvorak

23 /s/Mark Dzarnoski  
24 Mark Dzarnoski, Esq.

Counsel for Helen Bagley

/s/ DAVID BROWN

David Brown, Esq.

Counsel for Jeff Mitchell

/s/ MACE YAMPOLSKY

Mace Yampolsky, Esq.

Counsel for Melissa Spooner

/s/ JESS MARCHESE

Jess Marchese, Esq.

Counsel for Jeffrey Turino

/s/ Michael Chu

Timothy Vasquez

Michael Chu

Assistant U.S. Attorneys

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4 **UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF NEVADA**  
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7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 JOHN EDWARDS, et al.,

11 Defendants.  
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Case No. 2:09-cr-00132-MMD-RJJ

**Proposed  
Order granting  
Stipulation To Continue the Trial Date and  
Findings of Fact & Conclusions of Law**

13 **FINDINGS OF FACT**

14 Based on the pending stipulation of the parties, and good cause appearing therefore, the  
15 Court hereby finds that:

16 1. The Court has designated this case as complex. (Docket No. 57). The defendants  
17 need additional time to prepare for trial in the case including conducting legal research and factual  
18 investigation to determine the best respective defenses. The Parties also need additional time to  
19 continue exploring full resolution of the matter without going to trial. Further, as noted above, the  
20 Court has found that this case is sufficiently unusual and complex, due to the number of defendants,  
21 the nature of the prosecution, etc., to designate this case as a complex case. For all of these reasons,  
22 it is unreasonable to expect adequate preparation for pretrial proceedings and for the trial itself to  
23 occur within the time limits established under the Speedy Trial Act. (This is particularly true as  
24 defendant Jeffrey Turino has just been extradited back to the United States, and his attorney will



1 need additional time to review these materials and prepare for trial.) As such, the period for this  
2 continuance is excludable under 18 U.S.C. § 3161(h)(7)(A) when considering the factor under 18  
3 U.S.C. § 3161(h)(7)(B)(ii).

4 2. Certain defendants such as John Edwards are still in foreign countries, contesting  
5 extradition to the United States of America. Further, the interests of efficiency, judicial economy  
6 and the interests of justice would be best served by a continuance. As such, the period of delay  
7 resulting from the absence or unavailability of these defendants is excludable under the Speedy Trial  
8 Act, 18 U.S.C. § 3161(h)(3)(A).

9 3. Finally, the additional time requested by this stipulation is excludable in computing  
10 the time within which the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C.  
11 § 3161(h)(7)(A), when considering the factor under 18 U.S.C. §§ 3161(h)(7)(B)(i) (and,  
12 alternatively, under (h)(7)(B)(iv)) because, among other things, the failure of to grant this requested  
13 continuance would likely result in a miscarriage of justice for, among other reasons, the following  
14 reasons:

15 (a) As noted above, the voluminousness of the case materials, as well as the  
16 nature of the case, require additional time for the defendants to review the materials, conduct legal  
17 research and prepare for trial. This is particularly true for counsel for defendant Jeffrey Turino  
18 whose client was only recently extradited back to the United States and thus, has not had an  
19 adequate opportunity to examine the discovery.

20 (b) Defendant Jeffrey Turino is in custody, but does not object to the continuance  
21 of the trial. The defendants who have appeared in this case, Ginger Gutierrez, James Kinney, Brian  
22 Dvorak, Helen Bagley, Jeff Mitchell and Melissa Spooner, are not in custody, and, along with the  
23 United States, agree to a continuance of the trial date.

24 (c) Certain defendants such as John Edwards are still in foreign countries,

1 contesting extradition to the United States of America; thus, the interests of efficiency, judicial  
 2 economy and the interests of justice would be best served by a continuance.

3 (d) This is the fourth request for a continuance of the trial date.

4 **CONCLUSIONS OF LAW**

5 1. For the above-stated reasons, the ends of justice served by a continuance of the trial  
 6 date outweigh the best interest of the public and the defendants in a speedy trial. Thus, the  
 7 additional time requested by this stipulation is excludable in computing the time within which the  
 8 trial must commence pursuant to the Speedy Trial Act, 18 U.S.C. §3161(h)(7)(A), when considering  
 9 the factors under 18 U.S.C. §§ 3161(h)(7)(B)(i), 3161(h)(7)(B)(ii) (and, alternatively, under  
 10 3161(h)(7)(B)(iv)).


11 2. Further, because the Parties seek a continuance due to a period of delay resulting  
 12 from the absence of certain defendants who continue to await extradition, the additional time  
 13 requested by this stipulation is also excludable in computing the time within which the trial must  
 14 commence pursuant to the Speedy Trial Act, 18 U.S.C. §3161(h)(3)(A).

15 **ORDER**

16 IT IS THEREFORE ORDERED that the calendar call presently scheduled for December 26,  
 17 2012, at 9:00 am be vacated, continued and reset for October 8, 2013, at the  
 18 hour of 9:00 a.m. in Courtroom 4A.

19 IT IS FURTHER ORDERED that the trial currently scheduled for January 8, 2013, at 9:00  
 20 am is vacated, continued and reset for October 21, 2013, at the hour of  
 21 9:00 a.m., in Courtroom 4A.

22 DATED this 26th day of November, 2012.

23 

24 UNITED STATES DISTRICT JUDGE